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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 MIGUEL M. ARMENTERO,

9 Plaintiff,

10 v.

11 D.S.H.S.,

12 Defendant.  
13

CASE NO. C18-1699-JCC

ORDER

14 This matter comes before the Court on its pre-service review of Plaintiff Miguel M.  
15 Armentero's complaint (Dkt. No. 3) pursuant to 28 U.S.C. section 1915(e)(2). On December 4,  
16 2018, United States Magistrate Judge Hon. Mary Alice Theiler granted Plaintiff's motion to  
17 proceed *in forma pauperis*. (Dkt. No. 2.) Plaintiff filled out his complaint using a pre-formatted  
18 template and named "D.S.H.S." as Defendant.<sup>1</sup> (*See generally* Dkt. No. 3.)

19 In his complaint, Plaintiff states that the basis for jurisdiction is "diversity of citizenship."  
20 (*Id.* at 2.) Under the heading "Federal Question Jurisdiction," Plaintiff states that the following  
21 statutes are at issue in his case: "Refugee Act of 1980 (Public Law 96-212) Amendment to  
22

23 <sup>1</sup> The Court can construe the complaint as making a claim against the Washington State  
Department of Social and Health Services. (*See generally* Dkt. No. 3.)

1 earlier Nationality Act and the Migration and Refugee Assistance Act.” (*Id.* at 3.) The complaint  
2 further asserts that Plaintiff is a “U.S. Refugee.” (*Id.*) Under the heading “Amount in  
3 Controversy,” Plaintiff lists: “Medical cost and food assistance benefits, internet rates, late fees  
4 exceed 75,000 dollars.” (*Id.* at 5.) Under the heading “Statement of Claim,” Plaintiff writes: “In  
5 2013 Health Benefits were denied as well as food benefits, refusal to accept SSI award letters up  
6 to date 2018.” (*Id.*) Under the heading “Relief,” Plaintiff writes: “On 11-14-18 was denied  
7 health/food benefits Plaintiff was hospitalized on 10-24-18 Benefits were stopped on 2013  
8 \$150,000 punitive.” (*Id.*)

9       Once a complaint is filed *in forma pauperis*, the Court must dismiss it prior to service if it  
10 “fails to state a claim on which relief can be granted.” 28 U.S.C. § 1915(e)(2)(b)(ii); *see Lopez*  
11 *v. Smith*, 203 F.3d 1122, 1229 (9th Cir. 2000) (en banc). To avoid dismissal, a complaint must  
12 contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its  
13 face. *Ashcroft v. Iqbal*, 556 U.S. 662, 664 (2009). The factual allegations must be “enough to  
14 raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544,  
15 555 (2007). The complaint may be dismissed if it lacks a cognizable legal theory or states  
16 insufficient facts to support a cognizable legal theory. *Zixiang v. Kerry*, 710 F.3d 995, 999 (9th  
17 Cir. 2013).

18       The Court holds *pro se* plaintiffs to less stringent pleading standards than represented  
19 plaintiffs and liberally construes a *pro se* complaint in the light most favorable to the plaintiff.  
20 *Erickson v. Pardus*, 551 U.S. 89, 93 (2007). Nevertheless, section 1915(e) “not only permits but  
21 requires a district court to dismiss an *in forma pauperis* complaint that fails to state a claim.”  
22 *Lopez*, 203 F.3d at 1229. When dismissing a complaint under section 1915(e), the Court gives  
23 *pro se* plaintiffs leave to amend unless “it is absolutely clear that the deficiencies of the  
complaint could not be cured by amendment.” *Cato v. United States*, 70 F.3d 1103, 1106 (9th  
Cir. 1995).

1 Having screened Plaintiff's complaint, the Court has identified the following  
2 deficiencies:

3 Plaintiff fails to allege sufficient facts to demonstrate that Defendant is liable for the  
4 misconduct alleged. At the outset, it is not clear what law Defendant is alleged to have violated.  
5 (*See* Dkt. No. 5 at 2.) The complaint cites to a federal refugee statute, but Plaintiff's claim  
6 appears to deal with a state agency's failure to provide him with various public assistance  
7 benefits. (*See id.* at 2–4.) Also, the federal law cited by Plaintiff does not appear to provide him  
8 with a civil cause of action based on the facts alleged in the complaint. That law generally  
9 governs the procedures for refugees seeking asylum in the United States. *See* 8 U.S.C. § 1158.  
10 Nor is it clear why Plaintiff is entitled to the benefits that he was allegedly denied. Without  
11 further specificity, the Court cannot determine whether the complaint asserts a cognizable legal  
12 claim or whether that claim is supported by sufficient factual allegations. Further, while Plaintiff  
13 describes the harm he experienced—for example, the denial of “health benefits” and “food  
14 benefits”—the complaint does not contain sufficient facts to put Defendant on notice of when the  
15 harm occurred. (*Id.* at 5) (stating that denial of benefits happened “in 2013”).

16 Based on the forgoing, the Court DECLINES to serve Plaintiff's complaint, but  
17 GRANTS him leave to file an amended complaint curing the above-noted deficiencies within 21  
18 days after the date this order is signed. If no amended complaint is timely filed or if Plaintiff files  
19 an amended complaint that fails to correct the deficiencies identified above, the Court may  
20 dismiss Plaintiff's claims with prejudice under 28 U.S.C. section 1915(e)(2)(B)(ii) for failure to  
21 state a claim upon which relief may be granted.

22 Plaintiff is advised that an amended complaint operates as a complete substitute for an  
23 original complaint. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, any  
amended complaint must clearly identify the defendant(s), the claims asserted, the specific facts  
which Plaintiff believes support each claim, and the specific relief requested.

1           The Clerk is DIRECTED to send Plaintiff a copy of this order as well as the appropriate  
2 forms so that he may file an amended complaint.

3           DATED this 20th day of December 2018.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE